IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE THIRTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1371 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/07/2004 in WP NO : 17508 OF 2002 on the file of the High Court.)

Between:

Empee Sugars & Chemicals Ltd., rep by Senior Vice President, Sri R. Chandra Mohan, Naidupet, Nellore

..... APPELLANT

AND

1. The Government of A.P., rep by Secretary, Industries & Commerce (Sugar) Department, Secretariat, Hyderabad
2. The Director of Sugar Cane Commissioner, Nampally, Hyderabad-500 001.
3. The Assistant Sugar Cane Commissioner, Guntur
4. B. Parandhama Reddy (died) S/o Narasimha Reddy
5. B. Rajamma W/o B. Parandhama Reddy, R/o Rebala Village and Post, Nellore Mandal, Nellore District
6. B. Dhayakar Reddy S/o B. Parandhama Reddy R/o Rebala Village and Post, Nellore Mandal, Nellore District
7. B. Lakshmikanthamma W/o B. Dayakar Reddy R/o Rebala Village and Post, Nellore Mandal, Nellore District

.....RESPONDENTS

Counsel for the Appellant:M/SC.KODANDA RAM
Counsel for the Respondent Nos.1 to 3: GP FOR INDUSTRIES & COMMERCE
Counsel for the Respondent Nos.4 to 7: Sri S.Suryaprakash Rao

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

Proceedings are taken out before the Joint Director of Agriculture, Nellore, the Arbitrator appointed by the Director of Sugar and Cane Commissioner, Andhra Pradesh on the claim of respondents 4 to 7, who on 21-7-2000 passed his award against the appellant for a sum of Rs.10,15,000/- with interest at 9% per annum till date of realization. It was challenged by the appellant before the Director of Sugar and Cane Commissioner, who on merits, reduced the amount of compensation but enhanced interest from 9% to 15% per annum from the date of closure of factory or May, 1994, whichever is earlier. Still feeling aggrieved against this order, appellant preferred appeal before the State Government under Section 17 of the Sugar Cane Act, 1961. Appeal was dismissed on 30th July, 2002 against which appellant preferred writ petition in this court. When the writ petition came up for hearing, learned counsel for the appellant, fairly and rightly, did not challenge the correctness of the findings recorded as regards payment of compensation but raised a point as regards award of interest which was enhanced from 9% to 15% per annum by the second respondent. Learned counsel for the claimants-respondents 4 to 7 raised an objection that the appellant cannot be permitted to raise this point for the first time in the writ petition at the stage of arguments more especially when no such challenge to interest was made in the appeal presented before the State Government and in the writ petition also there was no challenge made to the award of interest at 15% per annum. Learned single Judge did notice this objection but without deciding the said objection proceeded to deal with the argument of the learned counsel for the appellant and negatived the same. No appeal has been preferred by the appellant questioning the legality and validity of the reasons assigned by the learned single Judge in upholding the award of interest at 15% per annum. When appeal was taken up by us, the same objection was raised by the claimants-respondents 4 to 7 that the

appellant could not have been permitted to raise the question of award of interest at the time of arguments before the learned single Judge especially when it was not raised in appeal before the State Government or in the writ petition. Learned counsel for the appellant on the other hand submits that the question of law decided by learned single Judge is likely to affect number of factories and reasoning adopted by learned single Judge in coming to his conclusion as regards applicability of Sub-section (2-A) of Section 19 of the Act is liable to be interfered with.

Having considered the submissions made at the Bar, we are of the view that the appellant ought not to have been permitted to raise a new ground to challenge the legality and validity of the award viz., award of interest from 9 to 15% per annum when no such challenge was made by the appellants before the State Government or in the body of the writ petition. It appears that in the anxiety to turn down the ground sought to be raised by the appellant without deciding the objection raised by the learned counsel for the respondents 4 to 7, learned single Judge turned down the ground itself on merits. Learned single Judge also made reference to the submission made by the learned counsel for respondents 4 to 7 while assigning reasons in turning down the submission made by the learned counsel for the appellant and negatived the writ on merits also.

Thus we find no merit in this appeal and dismiss the same making it clear that the judgment of the learned single Judge rendered as regards applicability of sub-section (2-A) of Section 19 of the Act to such like cases will not be treated as a precedent in other matters which come up for consideration and which of course have to be decided on merits as and when any such question is raised.

_____ DEVINDER GUPTA, CJ

13-9-2004

_____ C.V.RAMULU, J

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To

1. The Secretary, Government of A.P., Industries & Commerce (Sugar) Department, Secretariat, Hyderabad

2. The Director of Sugar Cane Commissioner, Nampally, Hyderabad-500 001.

3. The Assistant Sugar Cane Commissioner, Guntur

4. 2 CCs to the Govt. Pleader for Industries and Commerce, High Court Buildings, Hyderabad (OUT).

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